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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF LOS ANGELES

11 OMAR RODRIGUEZ; CINDY GUILLEN-
12 GOMEZ; STEVE KARAGIOSIAN;
13 ELFEGO RODRIGUEZ; AND JAMAL
14 CHILDS,

15 Plaintiffs,

16 -vs-

17 BURBANK POLICE DEPARTMENT; CITY
18 OF BURBANK; AND DOES 1 THROUGH
19 100, INCLUSIVE.

20 Defendants.

21 BURBANK POLICE DEPARTMENT; CITY
22 OF BURBANK,

23 Cross-Complainants,

24 -vs-

25 OMAR RODRIGUEZ, and Individual,

26 Cross- Defendant.

CASE NO.: BC 414 602

Assigned to: Hon. Joanne B. O'Donnell, Judge
Dept. 37

Complaint Filed: May 28, 2009

PLAINTIFF'S REPLY TO DEFENDANT'S
OPPOSITION TO PLAINTIFF'S MOTION *IN*
LIMINE NO. 3 TO EXCLUDE DOCUMENTS,
TESTIMONY AND OTHER EVIDENCE
REGARDING ANY PORTO'S BAKERY
INVESTIGATION

Final Status Conference:

DATE: June 8, 2011
TIME: 9:00 a.m.
DEPT: 37

Trial Date: June 8, 2011

1 **PLAINTIFF HAS MET AND CONFERRED IN COMPLIANCE WITH LOCAL RULES**

2 As stated in the Declaration of Steven M. Cischke accompanying Plaintiff's Motion *in*
3 *Limine* No. 3, on March 31, 2011, Mr. Cischke emailed a letter to Lawrence A. Michaels, counsel for
4 Defendant, in an attempt to meet and confer regarding Plaintiff's motions *in limine*. Nowhere in the
5 letter does it indicate that the motions discussed therein would only be filed in the Cindy Gomez
6 trial. The subject line references "*Rodriguez v. Burbank Police Department, et al.*" and not any of
7 §the individual related cases. Plaintiff has not filed any motions in the Steve Karagiosian trial that
8 were not discussed in the March 31 letter. All of the motions *in limine* Plaintiff has filed with
9 respect to Plaintiff Steve Karagiosian's trial were discussed in the March 31, 2011. Those motions
10 were argued during a pre-trial conference for the Guillen-Gomez trial. Defendant argues in its
11 opposition to Plaintiff's Motion *in Limine* No. 3 that the court denied the motion with respect to the
12 Guillen-Gomez trial. Thus, it is clear that "the subject of the motion has been discussed with
13 opposing counsel," in compliance with local rules, and Defendant's argument that counsel has not
14 met and conferred with respect to the motion, and is guilty of fraud, is unfounded.

15 **II. DEFENDANT DOES NOT DENY THAT SUCH EVIDENCE**
16 **IS INADMISSIBLE PURSUANT TO EVIDENCE CODE SECTION 780**

17 As stated in Plaintiff's moving papers, *Evidence Code* §787 provides that:

18 Subject to Section 788, evidence of specific instances of his conduct relevant only as
19 tending to prove a trait of his character is inadmissible to attack or support the credibility of a
20 witness.

21 Section 788 provides that, with certain exceptions, evidence that one has been convicted of a
22 felony may used to attack the credibility of a witness. Defendant's opposition completely ignores
23 Plaintiff's argument that evidence of any investigation into the Porto's Bakery arrests is inadmissible
24 to attack the credibility of any witness. In not addressing § 787, Defendant has tacitly admitted the
25 validity of Plaintiff' argument.

26 *People v. Hurd* (1970) 5 Cal.App.3d 865, relied upon by Defendant, is inapplicable for a
27 several reasons. First, *Hurd* was a criminal case. Section 787, by its own terms, applies only to
28 civil cases. Second, in *Hurd*, the credibility of a witness who had testified that in his opinion the

1 defendant was a person of good character, was impeached by asking if he was aware that the
2 defendant had been charged with various felonies. This is out side of the context of evidence
3 precluded by §787. In the case at bar, however, Plaintiff motion is directed at the possibility that
4 Defendant may attempt to attack the credibility of a witness by evidence that the same witness had
5 been accused of wrongdoing with respect to the Porto's Bakery arrests, which falls directly in the
6 scope of §787.

7 Thus, Plaintiff's motion should be granted.

8
9 DATED: May 31, 2011

LAW OFFICES OF RHEUBAN & GRESEN

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11 By: Steven M. Cischke
12 Steven M. Cischke
13 Attorneys for Plaintiff, Steve Karagiosian
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